

117TH CONGRESS  
1ST SESSION

# S. 1932

To protect individual liberty, ensure privacy, and prohibit discrimination with respect to the vaccination status of individuals, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 27, 2021

Mr. CRUZ (for himself, Mr. BRAUN, and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To protect individual liberty, ensure privacy, and prohibit discrimination with respect to the vaccination status of individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “No Vaccine Passports Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Severability.

## TITLE I—GENERAL PROVISIONS

## Subtitle A—Health Information Privacy Protections

Sec. 101. Prohibition on establishment of Federal vaccine passports and tracking of individuals.

Sec. 102. Vaccine status protections under HIPAA privacy regulations.

## Subtitle B—Consent to Vaccination

Sec. 111. Vaccinations.

## TITLE II—PROHIBITION OF DISCRIMINATION BASED ON VACCINATION STATUS

## Subtitle A—Nondiscrimination in Employment

Sec. 201. Definitions.

Sec. 202. Discrimination prohibited.

Sec. 203. Defenses.

Sec. 204. Remedies and enforcement.

## Subtitle B—Nondiscrimination in Public Accommodation

Sec. 211. Definitions.

Sec. 212. Prohibition of discrimination by places of public accommodation.

Sec. 213. Prohibition of discrimination in specified public transportation services provided by private entities.

Sec. 214. Exemptions for private clubs and religious organizations.

Sec. 215. Enforcement.

Sec. 216. Effective date.

## Subtitle C—Nondiscrimination by a Public Entity and Access to Federal Services

Sec. 221. Nondiscrimination by a public entity.

Sec. 222. Access to Federal services.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) In December 2019, reports began circu-  
 4 lating that hospitals in Wuhan, China were seeing  
 5 cases of a pneumonia-like respiratory illness of un-  
 6 known origins.

7 (2) On December 31, 2019, an automated  
 8 translation of a Chinese media report about a novel  
 9 respiratory outbreak was posted to ProMED, one of

1 the largest public emerging disease and outbreak re-  
2 porting systems used to promote communication  
3 among infectious disease specialists, including sci-  
4 entists, physicians, veterinarians, epidemiologists,  
5 and public health professionals.

6 (3) The ProMED posting prompted the World  
7 Health Organization (WHO) to instruct its China  
8 Country Office to request verification of the out-  
9 break from the communist government of the Peo-  
10 ple's Republic of China.

11 (4) In response to the WHO-prompted inquiry,  
12 the Wuhan Municipal Health Commission issued its  
13 first public statement on the outbreak, saying it had  
14 identified 27 cases.

15 (5) On January 3, 2020, in what is clear con-  
16 duct by the Chinese government to cover up the ori-  
17 gins and dangers posed by the outbreak, Dr. Li  
18 Wenliang, a physician at Wuhan Central Hospital,  
19 was reprimanded by local police in the Public Secu-  
20 rity Bureau for spreading allegedly “false state-  
21 ments” about the outbreak online.

22 (6) On January 3, 2020, the Chinese Center for  
23 Disease Control and Prevention (China CDC) Direc-  
24 tor-General Gao Fu told the United States Centers  
25 for Disease Control and Prevention (United States

1 CDC) Director Robert Redfield about a pneumonia  
2 outbreak in Wuhan, Hubei Province, China.

3 (7) On January 6, 2020, the United States De-  
4 partment of Health and Human Services (HHS)  
5 Secretary Alex M. Azar II and United States CDC  
6 Director Redfield offered to send United States  
7 CDC experts to China, and United States CDC  
8 issued a “Watch Level 1 Alert” for Wuhan, meaning  
9 that the CDC recognized a heightened risk for trav-  
10 elers, cautioning travelers to use health precautions  
11 when traveling to areas in China.

12 (8) On January 11, 2020, a team led by Pro-  
13 fessor Yong-zhen Zhang of Fudan University in  
14 Shanghai posted the genetic sequence of the novel  
15 virus on an open-access platform, sharing it with the  
16 world.

17 (9) On January 14, 2020, the WHO tweeted,  
18 “Preliminary investigations conducted by the Chi-  
19 nese authorities have found no clear evidence of  
20 human-to-human transmission of the novel  
21 coronavirus (2019-nCoV) identified in Wuhan,  
22 China”. The WHO’s assertion has been proven false  
23 and completely contrary to medical science given  
24 that there have been nearly 163,000,000 cases of in-

1        fection worldwide, resulting in more than 3,380,000  
2        deaths.

3            (10) On January 20, 2020, China confirmed  
4        person-to-person transmission of the novel  
5        coronavirus and infections among medical workers.

6            (11) On January 21, 2020, the United States  
7        CDC announced the first COVID–19 case in the  
8        United States.

9            (12) On January 30, 2020, WHO Director-  
10       General Tedros declared the epidemic a Public  
11       Health Emergency of International Concern, and  
12       President Donald J. Trump announced the forma-  
13       tion of the President’s Coronavirus Task Force. In  
14       a statement from the WHO regarding the second  
15       meeting of its International Health Regulations  
16       (2005) Emergency Committee regarding the out-  
17       break of novel coronavirus (2019–nCoV), the Com-  
18       mittee specifically did “not recommend any travel or  
19       trade restriction based on the current information  
20       available”.

21            (13) On January 31 2020, President Trump  
22        suspended entry into the United States of most for-  
23        eigners who were physically present in mainland  
24        China during the preceding 14-day period, effective  
25        February 2, 2020, and Secretary Azar declared a

1 public health emergency for the United States to aid  
2 response to the novel coronavirus.

3 (14) On February 1, 2020, then-presidential  
4 candidate Joe Biden recklessly downplayed the risk  
5 of the virus, suggesting in a tweet that President  
6 Trump’s efforts to limit the spread of the virus were  
7 nothing more than “hysteria, xenophobia, and fear-  
8 mongering”.

9 (15) Numerous individuals criticized these trav-  
10 el restrictions. When asked “if you had to, would  
11 you close down the borders?” to stop the spread of  
12 coronavirus, Senator Bernie Sanders said, “no”.  
13 When asked about these travel restrictions, Rep-  
14 resentative Nancy Pelosi stated, “[a]ctually tens of  
15 thousands of people were allowed in from China, it  
16 wasn’t as it was described as this great moment”.  
17 WHO Director-General Tedros Adhanom  
18 Ghebreyesus was reported to say that widespread  
19 travel bans and restrictions were not needed to stop  
20 the outbreak and could “have the effect of increas-  
21 ing fear and stigma, with little public health ben-  
22 efit”. Reportedly, Representative Ami Bera stated  
23 that the travel ban “probably doesn’t make sense”  
24 since the outbreak had already spread to several  
25 other countries, that such measures were causing an

1        antagonistic relationship with the Chinese, and such  
2        mandatory quarantines “may be overkill”.

3            (16) Health experts have since noted that the  
4        early United States restrictions imposed on travelers  
5        from China saved American lives. Former CDC di-  
6        rector Dr. Tom Frieden noted that “[t]he travel ban  
7        with China made a difference . . . It resulted in a  
8        significant delay in the number of people coming in  
9        with infection and because of that, that bought time  
10       in the U.S. to better prepare.”. While testifying be-  
11       fore the House of Representatives, Dr. Anthony  
12       Fauci was asked if he believed that the travel re-  
13       strictions saved lives, to which Dr. Fauci answered,  
14       “yes, I do”.

15           (17) On February 26, 2020, United States  
16        CDC confirmed a case of COVID–19 in California  
17        in a person who reportedly did not have relevant  
18        travel history or exposure to another known patient  
19        with COVID–19.

20           (18) On February 29, 2020, United States  
21        CDC reported the first COVID–19 death in United  
22        States, though later public reports indicated that the  
23        first death from COVID–19 may have been weeks  
24        earlier.

1           (19) In a 60 Minutes interview posted on  
2           March 8, 2020, Dr. Anthony Fauci stated that  
3           “right now in the United States, people should not  
4           be walking around with masks . . . there’s no rea-  
5           son to be walking around with a mask. When you’re  
6           in the middle of an outbreak wearing a mask might  
7           make people feel a little bit better, and it might even  
8           block a droplet, but it’s not providing the perfect  
9           protection that people think that it is. And often,  
10          there are unintended consequences, people keep fid-  
11          dling with the masks, and they keep touching their  
12          face . . . But, when you think masks, you should  
13          think of healthcare providers needing them and peo-  
14          ple who are ill. The people who, when you look at  
15          the films of foreign countries and you see eight-five  
16          percent of the people wearing masks, that’s fine.  
17          That’s fine. I’m not against it. If you want to do it,  
18          that’s fine . . . It could lead to a shortage of masks  
19          for the people who really need it.”.

20          (20) On April 3, 2020, United States CDC up-  
21          dated its guidance on facial coverings, recom-  
22          mending that Americans wear facial coverings in  
23          public settings and especially when social distancing  
24          measures are difficult to maintain.

1           (21) On May 15, 2020, the Trump administra-  
2           tion announced the establishment of Operation Warp  
3           Speed, a public-private partnership to expedite the  
4           timeline for development, large scale manufacturing,  
5           and delivery of a safe and effective COVID–19 vac-  
6           cine to the American public. The initial goal of the  
7           project was to develop at least 1 vaccine and begin  
8           administering it to Americans before the end of  
9           2020. As reported on BioCentury, Dr. Anthony  
10          Fauci noted that the fastest a vaccine might be  
11          ready for use in an emergency would be 1 year, al-  
12          though the process could take up to 2 years. Before  
13          the Senate on March 3, 2020, Dr. Fauci stated that  
14          the process would likely take at least 1 to 1½ years  
15          to have a vaccine that could be administered to  
16          American persons. Some, such as the analytics firm  
17          Clarivate, concluded that it might take at least 5  
18          years for the leading vaccine candidates, like  
19          Moderna, to complete the development process  
20          through full regulatory approval.

21          (22) Operation Warp Speed and other govern-  
22          ment actions sped COVID–19 vaccine development  
23          by enabling typical vaccine development steps to be  
24          taken simultaneously with manufacturing and dis-  
25          tribution planning. As part of these actions, the

1 Federal Government made investments in critical  
2 manufacturing capacity, giving pharmaceutical com-  
3 panies confidence that if they invested in developing  
4 a vaccine, once the vaccine received authorization  
5 from the Food and Drug Administration, these com-  
6 panies would be able to immediately begin distrib-  
7 uting the vaccine.

8 (23) Despite efforts to speed vaccine develop-  
9 ment to address the COVID–19 pandemic, the emer-  
10 gency use authorization (EUA) process utilized by  
11 the Food and Drug Administration (FDA) appears  
12 to have met rigorous safety and efficacy standards.

13 (24) On July 14, 2020, United States CDC  
14 issued stronger recommendations to wear masks as  
15 a strategy for preventing the spread of COVID–19.  
16 United States CDC Director Robert Redfield, in a  
17 news release from the agency, identified masks as  
18 “one of the most powerful weapons we have to slow  
19 and stop the spread of the virus”.

20 (25) On December 11, 2020, the FDA issued  
21 the first EUA for a vaccine for the prevention of  
22 COVID–19 in individuals 16 years of age and older.  
23 The EUA allowed the Pfizer-BioNTech COVID–19  
24 Vaccine to be distributed in the United States.

1           (26) On December 18, 2020, the FDA issued  
2           an EUA for the second vaccine for the prevention of  
3           COVID–19 in individuals 16 years of age and older.  
4           The EUA allowed the Moderna COVID–19 Vaccine  
5           to be distributed in the United States for use in in-  
6           dividuals 18 years of age and older.

7           (27) On February 27, 2021, the FDA issued an  
8           EUA for the third vaccine for the prevention of  
9           COVID–19. The EUA allowed the Janssen COVID–  
10          19 Vaccine to be distributed in the United States for  
11          use in individuals 18 years of age and older.

12          (28) Because of the hard work of countless  
13          Americans, this public-private partnership, and the  
14          funding and support from Congress, multiple safe  
15          and effective COVID–19 vaccines have been, and are  
16          still being, developed and manufactured, and, as of  
17          May 16, 2021, about 273,000,000 vaccine doses had  
18          been administered in the United States.

19          (29) Despite the successful development and  
20          rollout of the current COVID–19 vaccines, it is not  
21          fully known whether these vaccines will protect peo-  
22          ple from the emergence and potential future emer-  
23          gence of variants of SARS–CoV–2, the virus that  
24          causes COVID–19.

1           (30) The emergence of future variants of  
2 SARS-CoV-2 could require that the United States  
3 continue to develop new COVID-19 vaccines and  
4 that people receive a COVID-19 booster shot on a  
5 regular, potentially annual, basis to maintain immu-  
6 nity.

7           (31) According to the FDA fact sheets on  
8 COVID-19 vaccines, there are certain populations  
9 for whom existing COVID-19 vaccines are not indi-  
10 cated or authorized or for whom there is insufficient  
11 data to inform vaccine-related risks including—

12                   (A) people with severe allergies to vaccine  
13 components or who are immunocompromised;

14                   (B) people with certain pre-existing condi-  
15 tions such as bleeding disorders and women  
16 who are pregnant, trying to get pregnant, or  
17 breastfeeding; and

18                   (C) children under the age of 18.

19           (32) Because of potential risks that the vaccine  
20 poses to certain people, it is important that every  
21 patient is able to consult his or her doctor to deter-  
22 mine whether one of the COVID-19 vaccines is ap-  
23 propriate for that patient.

24           (33) Consistent with fundamental human  
25 rights, and medical and legal ethics and proper

1 standards of medical care, every American has the  
2 right to “informed consent” with respect to medical  
3 treatment, meaning that he or she has a right to be  
4 fully informed about the nature of his or her health  
5 care and to participate in and voluntarily make deci-  
6 sions related to his or her care. In addition, every  
7 patient has a right to medical privacy to expect that  
8 the decisions and nature of care will be kept con-  
9 fidential by his or her health care provider and any-  
10 one who has access to the individual’s medical  
11 records, including vaccination records.

12 (34) At various times in history, governments  
13 and medical professionals have violated these and  
14 other inherent rights including by coercing patients,  
15 failing to properly inform patients of, or even inten-  
16 tionally begin deceptive with patients about, their  
17 rights and the risks inherent with various medical  
18 procedures, experiments, and studies—including the  
19 Tuskegee syphilis experiments, forced sterilization,  
20 lobotomy procedures, electro-shock therapy, certain  
21 psychological studies, collection and utilization of in-  
22 dividuals’ cells and parts of their body, or from fetal  
23 tissue of a patient’s offspring, without knowledge or  
24 consent, and eugenics laws.

1           (35) The absence of informed consent not only  
2           constitutes a violation of medical ethics and stand-  
3           ards of care, in some cases, treatment may also con-  
4           stitute a crime, such as battery.

5           (36) Criminal battery stemming from violations  
6           of medical ethics and informed consent standards  
7           have led to a significant degree of distrust of the  
8           government, public health officials, and medical pro-  
9           fessionals by certain groups and communities includ-  
10          ing among the most vulnerable populations such as  
11          ethnic minorities, immigrants, economically dis-  
12          advantaged, unmarried mothers, those with disabil-  
13          ities, and those with mental illnesses.

14          (37) On January 12, 2021, United States CDC  
15          issued an order requiring proof of a negative  
16          COVID–19 test for all air passengers arriving from  
17          a foreign country to the United States, and on Feb-  
18          ruary 14, 2021, the United States CDC announced  
19          it would not recommend required testing for domes-  
20          tic air travel.

21          (38) On March 19, 2021, the WHO released  
22          draft recommendations for a Smart Vaccine Certifi-  
23          cate—what amounts to a form of a “vaccine pass-  
24          port” that would, per WHO’s “Smart Vaccination  
25          Certificate Working Group”, “support COVID–19

1 vaccine delivery and monitoring” and to serve “cur-  
2 rent and future requirements, toward the dual pur-  
3 poses of (1) supporting continuity of care; and (2)  
4 cross-border uses”.

5 (39) The International Air Transport Associa-  
6 tion has developed the Travel Pass Initiative to  
7 gather information on entry and exit testing require-  
8 ments, allow passengers to create a digital passport  
9 that verifies testing and vaccination status, and es-  
10 tablish the capability of sharing health data with  
11 government authorities.

12 (40) The European Commission has proposed a  
13 Digital Green Certificate on March 17, 2021, to  
14 prove a passenger’s vaccination status, test results,  
15 and COVID–19 antibodies that may be adopted by  
16 a country for public health restrictions.

17 (41) The State of New York is testing a vaccine  
18 certification to be used for admission into public  
19 events.

20 (42) More than 225 companies and organiza-  
21 tions are involved in what is known as the Vaccina-  
22 tion Credential Initiative, a program intended to es-  
23 tablish standards for developers to build digital vac-  
24 cine passports.

1           (43) On April 2, 2021, the United States CDC  
2           announced vaccinated people could travel safely. On  
3           April 5, 2021, the United States CDC rec-  
4           ommended, but did not require, passengers to be  
5           vaccinated, though cruise ships are still not per-  
6           mitted to resume normal operations.

7           (44) The White House, while saying the  
8           COVID-19 Task Force will not create a vaccine  
9           passport, has engaged in a multi-agency coordina-  
10          tion effort led by the Office of the National Coordi-  
11          nator for Health Information Technology to develop  
12          criteria and principles for a vaccine passport created  
13          by the private sector.

14          (45) The private sector, which includes many  
15          large technology companies that previously have  
16          shown disregard for privacy and a willingness to en-  
17          gage in censorship of Americans while bowing to the  
18          will of the Chinese Communist party, are pursuing  
19          digital vaccine passports that can be adopted by gov-  
20          ernments and other public establishments to authen-  
21          ticate personal health information.

22          (46) During a March 2, 2021, virtual meeting  
23          lead by the Federal Health IT Coordinating Council  
24          on behalf of the Biden Administration, a slide pres-  
25          entation included the following: “Proof of individual

1 COVID-related health status is likely to be an im-  
 2 portant component of pandemic response, proof of  
 3 immunization will likely become a major, if not the  
 4 primary, form of health status validation,” and a  
 5 “unified Federal approach [is] required to ensure  
 6 Federal activities are working toward the same com-  
 7 mon goals for vaccine [passports].” Additionally, the  
 8 presentation suggested the Biden Administration ex-  
 9 pects that “Federal entities” would “likely require  
 10 vaccine verification for a variety of purposes” and  
 11 that the “Federal government will inevitably be in-  
 12 volved with vaccine credential solutions . . .”.

13 (47) The Federal Health IT Coordinating  
 14 Council also listed a number of international organi-  
 15 zations and private companies that are working on  
 16 the development of vaccine passports.

17 (48) The development, implementation, and uti-  
 18 lization of vaccine passports, whether by Federal or  
 19 State government, or the private sector, has the po-  
 20 tential for significant misuse and abuse, leading to  
 21 the denial of constitutionally protected freedoms  
 22 such as freedom of association and freedom of move-  
 23 ment, and could allow the government or corporate  
 24 interests to begin to track people’s health status on  
 25 a large-scale basis.

1           (49) There currently exists no clear regulatory  
2       framework to fully protect the privacy of United  
3       States citizens and United States nationals with re-  
4       spect to their vaccination records and negative  
5       COVID–19 test results.

6           (50) The widespread utilization of vaccine pass-  
7       ports will certainly lead to discrimination by busi-  
8       nesses that provide public accommodations as they  
9       could begin to require a customer to demonstrate his  
10      or her health status, through the presentment of a  
11      vaccine passport or other “papers” or by requiring  
12      that the customer disclose his or her protected  
13      health information, before the business agrees to  
14      serve or otherwise do business with such individual,  
15      meaning the denial of service in such cases could be  
16      based on an individual’s disability, health status, or  
17      familial status, such as a restaurant denying service  
18      to a man who has not been vaccinated based on the  
19      advice of his doctor due to a previous anaphylaxis  
20      (allergic) reaction to an ingredient found in the  
21      COVID–19 vaccines.

22          (51) The widespread acceptance of vaccine  
23      passports could also lead to employment discrimina-  
24      tion, where employers take adverse employment ac-  
25      tions against employees who are not vaccinated be-

1       cause of an underlying health condition and without  
2       regard to the Americans with Disabilities Act of  
3       1990 (42 U.S.C. 12101 et seq.) (ADA), which re-  
4       quires an interactive process whereby the employer  
5       follows the law to assess if the employee can and  
6       should be reasonably accommodated under the ADA.  
7       For example, without proper disability protections,  
8       an employer could terminate a female employee who  
9       has not been vaccinated based on the advice of her  
10      doctor simply because she is pregnant.

11           (52) In February 2021, a business in New York  
12      told its employees that the business was instituting  
13      a vaccine mandate and, when a woman who worked  
14      there decided against getting a COVID–19 vaccine  
15      because she was trying to get pregnant, she was told  
16      her employment was being terminated.

17           (53) In March 2021, a woman in Cumberland  
18      County, Pennsylvania was suspended from her job  
19      after her employer issued a vaccine mandate for its  
20      employees. The woman, who said she is not anti-vac-  
21      cination, wanted sufficient time to consult with her  
22      doctor to see if the vaccine was appropriate for her.

23           (54) For women who are pregnant or  
24      breastfeeding, the CDC has indicated that “the po-  
25      tential risks of COVID–19 vaccines to the pregnant

1 person and the fetus are unknown because these  
2 vaccines have not been studied in pregnant people”.  
3 Accordingly, it is highly likely that the implementa-  
4 tion and use of vaccine passports, refusal to provide  
5 services to unvaccinated persons, and decision by  
6 employers to impose a vaccine mandate and to take  
7 adverse employment actions against unvaccinated  
8 employees, are likely to be unfair and discrimina-  
9 tory, disparately impacting women because of their  
10 sex.

11 (55) Given that several COVID–19 vaccines are  
12 not recommended for children under the age of 12,  
13 the implementation and widespread utilization of  
14 vaccine passports could lead to the refusal to provide  
15 services to unvaccinated persons, such as the denial  
16 of services to families with small children, meaning  
17 certain vaccine-related policies could lead to age or  
18 familial-status-related discrimination.

19 (56) The denial of public services and public ac-  
20 commodations, as well as adverse employment ac-  
21 tions, based on COVID–19 vaccination status, lack  
22 of or refusal to present a vaccine passport, refusal  
23 to get vaccinated, or requiring an individual to ex-  
24 plain the underlying reason why they are not vac-  
25 cinated, could constitute unlawful discrimination, in-

cluding as to sex, age, familial status, disability, or  
based on genetic or other health condition.

(57) Any United States person that requests  
the vaccine records of a United States individual, in-  
cluding data such as a copy or other digital record  
of a vaccine passport or similar proof of vaccination,  
should be regarded as having collected “protected  
health information” and should be regarded as a  
“covered entity” as defined under the Health Insur-  
ance Portability and Accountability Act of 1996  
(Public Law 104–191).

(58) The policy of the United States is to rec-  
ognize, defend, and protect the inherent rights of the  
individual, including the right to privacy, the right  
of liberty, the right to be secure in one’s person, the  
right of the individual to be informed about any  
medical procedures, treatment, or vaccination, and  
the right of the individual to provide or withhold  
consent to such procedures, treatment, or vaccina-  
tion.

(59) Congress recognizes that special vigilance  
is required, especially in times of crisis or emergency  
to ensure that government agencies do not try to  
take advantage of, manipulate, or enflame public  
fear, stoke hatred of minority groups, or increase in-

1 tolerance toward the diversity that builds our Na-  
2 tion.

3 (60) Congress finds that there is a clear need  
4 for the Federal Government to take specific action  
5 to restore public trust by protecting the privacy and  
6 voluntary informed consent rights of patients specifi-  
7 cally regarding vaccinations and an individual's vac-  
8 cination records.

9 (61) Furthermore, the protection of such indi-  
10 vidual rights to make one's own medical decisions in  
11 consultation with his or her health care provider  
12 without fear of coercion, forced vaccination, loss of  
13 civil liberties, or risk of adverse employment action  
14 is especially needed at a time when it is critical for  
15 our Nation to increase public trust in vaccinations  
16 and increase vaccination rates in order to end the  
17 COVID-19 pandemic.

18 **SEC. 3. SEVERABILITY.**

19 (a) IN GENERAL.—If any provision of this Act, or  
20 an amendment made by this Act, or the application of any  
21 such provision or amendment to any person or cir-  
22 cumstance is declared invalid or unconstitutional, the re-  
23 mainder of this Act, including any amendment made by  
24 this Act, and the application of such provisions and

1 amendments to any person or circumstance shall not be  
2 affected.

3 (b) EFFECT OF PARTIAL INVALIDATION, REPEAL, OR  
4 AMENDMENT.—The invalidation, repeal, or amendment of  
5 any part of this Act, or amendment made by this Act,  
6 does not release or extinguish any penalty, forfeiture, or  
7 liability incurred or right accruing or accrued under this  
8 Act (or amendment), unless the invalidation, repeal, or  
9 amendment so provides expressly. This Act, and amend-  
10 ments made by this Act, shall be treated as remaining in  
11 force for the purpose of sustaining any proper action or  
12 prosecution for the enforcement of the right, penalty, for-  
13 feiture, or liability pursuant to the previous sentence.

## 14 **TITLE I—GENERAL PROVISIONS**

### 15 **Subtitle A—Health Information**

#### 16 **Privacy Protections**

##### 17 **SEC. 101. PROHIBITION ON ESTABLISHMENT OF FEDERAL** 18 **VACCINE PASSPORTS AND TRACKING OF IN-** 19 **DIVIDUALS.**

20 (a) IN GENERAL.—No Federal funds may be used  
21 to create, establish or collaborate in the establishment of  
22 any Federal, State, private, or international vaccine pass-  
23 port system, vaccine tracking database, or similar system  
24 or in the creation or adoption of any related guidelines  
25 or standards, under which Federal, State, or international

1 government agencies or private companies would be able  
2 to monitor or track individuals who have been vaccinated  
3 against COVID–19, or which could otherwise be used to  
4 limit the freedom of movement or the freedom of associa-  
5 tion of individuals based on their COVID–19 vaccination  
6 status.

7 (b) PERSONAL PRIVACY.—To the extent any Federal  
8 department or agency has received, obtained, collected, ag-  
9 gregated, stored, or is otherwise in possession of any data  
10 or records from officials, including public health officials,  
11 in any State, the District of Columbia, or any territory,  
12 or any third party who administered or has information  
13 related to the administration of any COVID–19 vaccina-  
14 tions, including health care providers and insurers, such  
15 data and records about any individuals’ vaccination status  
16 shall be destroyed by the Federal department or agency  
17 and, if in digital form, that data record shall be deleted  
18 in its entirety within 30 days of the enactment of this Act.

19 (c) REPORTING.—For any Federal department or  
20 agency that has received and subsequently destroyed  
21 COVID–19 data or records as required by this section,  
22 the head of such agency shall, not later than 15 days after  
23 such data or records have been destroyed, submit a sworn  
24 affidavit, subject to penalty of perjury, to Congress con-

1   firming that he or she has personally assured such data  
2   or records have been destroyed.

3       (d) CRIMINAL PENALTIES.—Any person who know-  
4   ingly makes or is responsible for the inclusion of a state-  
5   ment or representation in an affidavit under subsection  
6   (c) that is materially false, fictitious, or fraudulent shall  
7   be fined not more than \$10,000, imprisoned not more  
8   than 1 year, or both.

9       (e) PROHIBITION ON FEDERAL ISSUANCE OR VAC-  
10   CINE PASSPORT OR SIMILAR DOCUMENTATION AND PRO-  
11   HIBITION ON VACCINATION REQUIREMENT TO ENTER  
12   FEDERAL PROPERTY OR SERVICES.—

13           (1) IN GENERAL.—No Federal department or  
14   agency may issue a vaccine passport, vaccine pass,  
15   or other standardized documentation for the purpose  
16   of certifying the COVID–19 vaccination status of a  
17   citizen of the United States to a third party, or oth-  
18   erwise publish or share any COVID–19 vaccination  
19   record of a citizen of the United States, or similar  
20   health information.

21           (2) ACCESS TO FEDERAL PROPERTY AND SERV-  
22   ICES.—Proof of COVID–19 vaccination shall not be  
23   deemed a requirement for access to Federal property  
24   or Federal services, or for access to congressional  
25   grounds or services.

1 (f) EXCEPTIONS.—

2 (1) DEIDENTIFIED OR ANONYMIZED INFORMA-  
3 TION FOR CERTAIN PURPOSES.—The prohibition de-  
4 scribed in subsection (a) shall not apply to the ag-  
5 gregation and sharing of information that has been  
6 deidentified or anonymized if such information is  
7 used for purposes of Federal, State, or local public  
8 health reporting or academic studies, provided that  
9 the recipient of such information does not have the  
10 capability to reconstruct the data in any way that  
11 would allow for the determination of the vaccination  
12 status of any individual.

13 (2) LIMITED USE OF INFORMATION WITH RE-  
14 SPECT TO FEDERAL EMPLOYEES.—The prohibition  
15 described in subsection (a) and the requirement de-  
16 scribed in subsection (b) shall not apply to the pos-  
17 session by a Federal department or agency of  
18 COVID–19 vaccination data or records pertaining to  
19 any employee of such department or agency where  
20 such data or records will be used solely to determine  
21 if such employee would be eligible to gain admission  
22 to a foreign country during international travel in  
23 furtherance of the employee’s official duties.

1 **SEC. 102. VACCINE STATUS PROTECTIONS UNDER HIPAA**  
2 **PRIVACY REGULATIONS.**

3 (a) IN GENERAL.—The Secretary of Health and  
4 Human Services shall amend the regulations promulgated  
5 under section 264(c) of the Health Insurance Portability  
6 and Accountability Act of 1996 (42 U.S.C. 1320d–2 note)  
7 to establish the following:

8 (1) Reporting by covered entities to public  
9 health entities of non-anonymized protected health  
10 information related to an individual’s vaccination  
11 status is not permissible, even during public health  
12 emergencies, without express patient consent.

13 (2) Any United States person that requests the  
14 vaccine records of a United States individual shall be  
15 deemed to be a covered entity for purposes of such  
16 request.

17 (3) With respect to any individual who shares  
18 their vaccine status with any covered entity, the cov-  
19 ered entity shall comply with any request from such  
20 individual to—

21 (A) delete all protected health information  
22 that identifies the individual’s vaccination sta-  
23 tus, including in relation to any records shared  
24 with the covered entities’ business associates, in  
25 all active and inactive databases; and

1 (B) provide to such individual written con-  
 2 firmation of such deletion.

3 (b) DEFINITIONS.—In this section, the terms “busi-  
 4 ness associate”, “covered entity”, “protected health infor-  
 5 mation” have the meanings given such terms in section  
 6 160.103 of title 21, Code of Federal Regulations (or any  
 7 successor regulations).

## 8 **Subtitle B—Consent to Vaccination**

### 9 **SEC. 111. VACCINATIONS.**

10 (a) IN GENERAL.—Part I of title 18, United States  
 11 Code, is amended by inserting after chapter 117 the fol-  
 12 lowing:

## 13 **“CHAPTER 117A—VACCINATIONS**

### 14 **“§ 2431. Vaccinations**

15 “(a) REQUIREMENTS.—

16 “(1) IN GENERAL.—Except as provided in para-  
 17 graph (2), it shall be unlawful to—

18 “(A) require any United States person to  
 19 receive a vaccine that has only received author-  
 20 ization by the Food and Drug Administration  
 21 through an emergency use authorization pursu-  
 22 ant to section 564 of the Federal Food, Drug,  
 23 and Cosmetic Act (21 U.S.C. 360bbb–3), or  
 24 that has received such authorization prior to re-  
 25 ceiving full approval or licensure under section

1           505 of the Federal Food, Drug, and Cosmetic  
 2           Act (21 U.S.C. 355) or section 351 of the Pub-  
 3           lic Health Service Act (42 U.S.C. 262); or

4           “(B) vaccinate with a vaccine that has only  
 5           received authorization by the Food and Drug  
 6           Administration through such an emergency use  
 7           authorization, or that has received such author-  
 8           ization prior to receiving such full approval or  
 9           licensure—

10                   “(i) an individual under the age of 18;

11                           or

12                           “(ii) an individual that lacks the ca-  
 13                           pacity to exercise the right to consent to be  
 14                           vaccinated.

15           “(2) EXCEPTIONS.—Paragraph (1) shall not  
 16           apply if the individual, or if the individual is a minor  
 17           or is otherwise unable to consent, a parent, guard-  
 18           ian, conservator, or attorney-in-fact of the indi-  
 19           vidual, provides consent to be vaccinated.

20           “(3) SUNSET.—This subsection shall cease to  
 21           have force or effect on the date that is 5 years after  
 22           the date of enactment of this section.

23           “(b) RIGHT TO BE INFORMED.—Any person that ad-  
 24           ministers a vaccine for the coronavirus disease 2019  
 25           (COVID–19) shall, consistent with medical ethics and ap-

1 plicable informed consent laws of the State in which the  
 2 vaccine is administered and any applicable Federal regula-  
 3 tions related to informed consent laws, disclose to any in-  
 4 dividual, before the vaccine is administered, the risks asso-  
 5 ciated with the vaccine so that the individual can make  
 6 an informed decision.

7 “(c) PROTECTING PRIVACY.—

8 “(1) IN GENERAL.—Except as provided in sub-  
 9 paragraph (B), it shall be unlawful for any person  
 10 to publicly disclose information about the COVID-  
 11 19 vaccination status of an individual without the  
 12 express consent of the individual if the individual  
 13 provided the information to the person—

14 “(A) as an employee in the context of an  
 15 employer-employee relationship;

16 “(B) as an independent contractor where  
 17 the vaccination status was provided to the per-  
 18 son to whom the contractor is providing serv-  
 19 ices;

20 “(C) as a consumer in the context of any  
 21 consumer transaction;

22 “(D) as a patient in order to obtain med-  
 23 ical care or health-related services from any  
 24 health care provider; or

1           “(E) the user of any technology applica-  
2           tion, platform, or service.

3           “(2) REQUIREMENTS.—For purposes of this  
4           subsection, an individual does not provide express  
5           consent to the disclosure of a COVID–19 vaccination  
6           status unless—

7           “(A) the individual agrees to the cir-  
8           cumstances of disclosure in writing; and

9           “(B) the agreement is not conditioned on  
10          or contained within any other agreement.

11          “(3) EXCEPTION.—Paragraph (1) shall not  
12          apply if the parent or guardian of the individual pro-  
13          vides consent to the disclosure described in that sub-  
14          paragraph.

15          “(d) CRIMINAL PENALTIES.—Whoever knowingly  
16          violates subsection (a) or (c) shall be imprisoned no more  
17          than 1 year, fined in accordance with this title, or both.

18          “(e) CIVIL PENALTIES.—Any person who receives the  
19          COVID–19 vaccination status of an individual under cir-  
20          cumstances that would create a reasonable expectation of  
21          privacy in that status, including the circumstances listed  
22          in subparagraphs (A) through (E) of subsection (c)(1),  
23          and who either intentionally or negligently discloses that  
24          status to the public without the consent of the individual

1 shall be subject to a civil fine not to exceed \$25,000 per  
 2 disclosure or any actual damages suffered.

3 “(f) PREEMPTION.—This section does not annul,  
 4 alter, or affect any law of any State or local government  
 5 that provides a greater level of privacy than the provisions  
 6 in this section.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 8 The table of chapters for part I of title 18, United States  
 9 Code, is amended by inserting after the item relating to  
 10 section 117 the following:

“117A. Vaccinations ..... 2431”.

11 **TITLE II—PROHIBITION OF DIS-**  
 12 **CRIMINATION BASED ON VAC-**  
 13 **CINATION STATUS**

14 **Subtitle A—Nondiscrimination in**  
 15 **Employment**

16 **SEC. 201. DEFINITIONS.**

17 In this section:

18 (1) ADA TERMS.—The terms “direct threat”  
 19 and “undue hardship” have the meaning given those  
 20 terms in section 101 of the Americans with Disabil-  
 21 ities Act of 1990 (42 U.S.C. 12111).

22 (2) COVERED ENTITY.—The term “covered en-  
 23 tity”—

1 (A) has the meaning given the term “re-  
 2 spondent” in section 701(n) of the Civil Rights  
 3 Act of 1964 (42 U.S.C. 2000e(n)); and

4 (B) includes—

5 (i) an employer, which means a per-  
 6 son engaged in industry affecting com-  
 7 merce who has 15 or more employees as  
 8 defined in section 701(b) of title VII of the  
 9 Civil Rights Act of 1964 (42 U.S.C.  
 10 2000e(b)); and

11 (ii) an entity to which section 717(a)  
 12 of the Civil Rights Act of 1964 (42 U.S.C.  
 13 2000e–16(a)) applies.

14 (3) EMPLOYEE.—The term “employee”  
 15 means—

16 (A) an employee (including an applicant),  
 17 as defined in section 701(f) of the Civil Rights  
 18 Act of 1964 (42 U.S.C. 2000e(f)); and

19 (B) an employee (including an applicant)  
 20 to which section 717(a) of the Civil Rights Act  
 21 of 1964 (42 U.S.C. 2000e–16(a)) applies.

22 (4) PERSON; COMMERCE; INDUSTRY AFFECTING  
 23 COMMERCE.—The terms “person”, “commerce”, and  
 24 “industry affecting commerce” shall have the same

1 meaning given such terms in section 701 of the Civil  
2 Rights Act of 1964 (42 U.S.C. 2000e).

3 (5) QUALIFIED EMPLOYEE.—The term “quali-  
4 fied employee” means an employee or applicant who,  
5 with or without reasonable accommodation, can per-  
6 form the essential functions of the employment posi-  
7 tion. For the purposes of this title, consideration  
8 shall be given to the employer’s judgment as to what  
9 functions of a job are essential, and if an employer  
10 has prepared a written description before advertising  
11 or interviewing applicants for the job, this descrip-  
12 tion shall be considered evidence of the essential  
13 functions of the job.

14 (6) REASONABLE ACCOMMODATION.—The term  
15 “reasonable accommodation” may include—

16 (A) job restructuring, modified work sched-  
17 ules, telework, reassignment to a vacant posi-  
18 tion, or wearing a mask or personal protective  
19 equipment; and

20 (B) physical distancing for an  
21 unvaccinated individual or an unvaccinated in-  
22 dividual wearing a mask or personal protective  
23 equipment, to the extent that the unvaccinated  
24 individual interacts with individuals who are

1 vulnerable to COVID–19 and unvaccinated for  
2 COVID–19.

3 (7) VACCINATION STATUS.—The term “vaccina-  
4 tion status” means—

5 (A) an individual’s status based on the vol-  
6 untary election to receive or not to receive a  
7 COVID–19 vaccine; and

8 (B) regardless of whether someone has or  
9 has not been vaccinated against COVID–19, an  
10 individual’s status with respect to having or  
11 producing proof of such vaccination in the form  
12 of a vaccine passport or other medical records  
13 that would demonstrate whether an individual  
14 has been vaccinated against COVID–19.

15 **SEC. 202. DISCRIMINATION PROHIBITED.**

16 (a) GENERAL RULE.—No covered entity shall dis-  
17 criminate against a qualified employee on the basis of vac-  
18 cination status, or the qualified employee’s unwillingness  
19 or inability to present a vaccine passport or other proof  
20 of having a COVID–19 vaccine, in regard to job applica-  
21 tion procedures, the hiring, advancement, or discharge of  
22 employees, employee compensation, job training, and other  
23 terms, conditions, and privileges of employment.

24 (b) CONSTRUCTION.—

1           (1) IN GENERAL.—As used in subsection (a),  
2       the term “discriminate against a qualified employee  
3       on the basis of vaccination status” includes—

4           (A) limiting, segregating, or classifying an  
5       employee in a way that adversely affects the op-  
6       portunities or status of such employee because  
7       of the vaccination status of such employee;

8           (B) participating in a contractual or other  
9       arrangement or relationship that has the effect  
10      of subjecting a covered entity’s qualified em-  
11      ployee based on vaccination status to the dis-  
12      crimination prohibited by this title (such rela-  
13      tionship includes a relationship with an employ-  
14      ment or referral agency, labor union, an organi-  
15      zation providing fringe benefits to an employee  
16      of the covered entity, or an organization pro-  
17      viding training and apprenticeship programs);

18          (C) utilizing standards, criteria, or meth-  
19      ods of administration—

20           (i) that have the effect of discrimina-  
21          tion on the basis of vaccination status; or

22           (ii) that perpetuate the discrimination  
23          of others who are subject to common ad-  
24          ministrative control;

1 (D) excluding or otherwise denying equal  
2 benefits to a qualified employee because of the  
3 known vaccination status of an individual with  
4 whom the qualified employee is known to have  
5 a relationship or association;

6 (E)(i) not making reasonable accommoda-  
7 tions based on vaccination status for an other-  
8 wise qualified employee, unless such covered en-  
9 tity can demonstrate that the accommodation  
10 would impose an undue hardship on the oper-  
11 ation of the business of such covered entity; or

12 (ii) denying employment opportunities to  
13 an employee who is an otherwise qualified em-  
14 ployee based on vaccination status, if such de-  
15 nial is based on the need of such covered entity  
16 to make reasonable accommodation based on  
17 the vaccination status of the qualified employee;  
18 and

19 (F) using qualification standards, employ-  
20 ment tests, or other selection criteria that  
21 screen out or tend to screen out an individual  
22 or a class of individuals based on vaccination  
23 status unless the standard, test or other selec-  
24 tion criteria, as used by the covered entity, is

1 shown to be job-related for the position in ques-  
 2 tion and is consistent with business necessity.

3 (2) EXCLUSIONS.—Notwithstanding any other  
 4 provision of this section, the term “discriminate  
 5 against a qualified individual on the basis of vac-  
 6 cination status” does not include—

7 (A) requiring physical distancing by or  
 8 from individuals who are particularly vulnerable  
 9 to COVID–19 or have not been fully vaccinated  
 10 for COVID–19;

11 (B) requiring a qualified employee to wear  
 12 a mask or to utilize other personal protective  
 13 equipment; or

14 (C) conducting any symptom check as de-  
 15 scribed in subsection (d)(3).

16 (c) COVERED ENTITIES IN FOREIGN COUNTRIES.—  
 17 It shall not be unlawful under this section for a covered  
 18 entity to take any action that constitutes discrimination  
 19 under this section with respect to an employee in a work-  
 20 place in a foreign country if compliance with this section  
 21 would cause such covered entity to violate the law of the  
 22 foreign country in which such workplace is located.

23 (d) MEDICAL EXAMINATIONS AND INQUIRIES.—

24 (1) IN GENERAL.—Consistent with paragraph

25 (2), the prohibition against discrimination as re-

1       ferred to in subsection (a) shall include medical ex-  
2       aminations designed to reveal a qualified employee's  
3       vaccination status and inquiries about a qualified  
4       employee's vaccination status or reasons for choos-  
5       ing not to receive a COVID-19 vaccine.

6           (2) PROHIBITED EXAMINATIONS AND INQUIR-  
7       IES.—A covered entity shall not require a medical  
8       examination designed to reveal a qualified employ-  
9       ee's vaccination status and shall not make inquiries  
10      of an employee as to the vaccination status of the  
11      employee or reasons for choosing not to receive a  
12      COVID-19 vaccine unless such examination or in-  
13      quiry is shown to be job-related and consistent with  
14      business necessity.

15          (3) SYMPTOM CHECKS PERMITTED.—Notwith-  
16      standing any other provision of this title, a covered  
17      entity may implement basic health screenings that  
18      ask individuals if they have symptoms associated  
19      with COVID-19 as long as the covered entity does  
20      not discriminate against a qualified employee, as de-  
21      scribed in subsection (a), based on those symptoms,  
22      provided that the covered entity does not discrimi-  
23      nate on the basis of vaccination status when taking  
24      any action in response to any symptom check.

1   **SEC. 203. DEFENSES.**

2       (a) IN GENERAL.—It may be a defense to a charge  
3 of discrimination under this title that an alleged applica-  
4 tion of qualification standards, tests, or selection criteria  
5 that screen out or tend to screen out or otherwise deny  
6 a job or benefit to a qualified employee based on vaccina-  
7 tion status has been shown to be job-related and consistent  
8 with business necessity, and such performance cannot be  
9 accomplished by reasonable accommodation, as required  
10 under this title.

11       (b) RELIGIOUS ENTITIES.—

12           (1) IN GENERAL.—This title shall not prohibit  
13 a religious corporation, association, educational in-  
14 stitution, or society from giving preference in em-  
15 ployment to individuals of a particular religion to  
16 perform work connected with the carrying on by  
17 such corporation, association, educational institu-  
18 tion, or society of its activities.

19           (2) RELIGIOUS TENETS REQUIREMENT.—Under  
20 this title, a religious organization may require that  
21 all applicants and employees conform to the religious  
22 tenets of such organization.

23   **SEC. 204. REMEDIES AND ENFORCEMENT.**

24       (a) EMPLOYEES COVERED BY TITLE VII OF THE  
25 CIVIL RIGHTS ACT OF 1964.—

1           (1) IN GENERAL.—The powers, remedies, and  
2           procedures provided in sections 705, 706, 707, 709,  
3           710, and 711 of the Civil Rights Act of 1964 (42  
4           U.S.C. 2000e–4 et seq.) to the Commission, the At-  
5           torney General, or any person alleging a violation of  
6           title VII of such Act (42 U.S.C. 2000e et seq.) shall  
7           be the powers, remedies, and procedures this Act  
8           provides to the Commission, the Attorney General,  
9           or any person, respectively, alleging an unlawful em-  
10          ployment practice in violation of this title against an  
11          employee described in section 201(3)(A) except as  
12          provided in paragraphs (2) and (3) of this sub-  
13          section.

14          (2) COSTS AND FEES.—The powers, remedies,  
15          and procedures provided in subsections (b) and (c)  
16          of section 722 of the Revised Statutes (42 U.S.C.  
17          1988) shall be the powers, remedies, and procedures  
18          this Act provides to the Board or any person alleg-  
19          ing such practice.

20          (3) DAMAGES.—The powers, remedies, and pro-  
21          cedures provided in section 1977A of the Revised  
22          Statutes (42 U.S.C. 1981a), including the limita-  
23          tions contained in subsection (b)(3) of such section  
24          1977A, shall be the powers, remedies, and proce-  
25          dures this title provides to the Board or any person

1       alleging such practice (not an employment practice  
2       specifically excluded from coverage under section  
3       1977A(a)(1) of the Revised Statutes).

4       (b) EMPLOYEES COVERED BY SECTION 717 OF THE  
5       CIVIL RIGHTS ACT OF 1964.—

6           (1) IN GENERAL.—The powers, remedies, and  
7       procedures provided in section 717 of the Civil  
8       Rights Act of 1964 (42 U.S.C. 2000e–16) to the  
9       Commission, the Attorney General, the Librarian of  
10      Congress, or any person alleging a violation of that  
11      section shall be the powers, remedies, and proce-  
12      dures this title provides to the Commission, the At-  
13      torney General, the Librarian of Congress, or any  
14      person, respectively, alleging an unlawful employ-  
15      ment practice in violation of this title against an em-  
16      ployee described in section 201(3)(B), except as pro-  
17      vided in paragraphs (2) and (3) of this subsection.

18          (2) COSTS AND FEES.—The powers, remedies,  
19      and procedures provided in subsections (b) and (c)  
20      of section 722 of the Revised Statutes (42 U.S.C.  
21      1988) shall be the powers, remedies, and procedures  
22      this Act provides to the Commission, the Attorney  
23      General, the Librarian of Congress, or any person  
24      alleging such practice.

1           (3) DAMAGES.—The powers, remedies, and pro-  
 2           cedures provided in section 1977A of the Revised  
 3           Statutes (42 U.S.C. 1981a), including the limita-  
 4           tions contained in subsection (b)(3) of such section  
 5           1977A, shall be the powers, remedies, and proce-  
 6           dures this title provides to the Commission, the At-  
 7           torney General, the Librarian of Congress, or any  
 8           person alleging such practice (not an employment  
 9           practice specifically excluded from coverage under  
 10          section 1977A(a)(1) of the Revised Statutes).

11          (c) PROHIBITION AGAINST RETALIATION.—

12           (1) IN GENERAL.—No person shall discriminate  
 13           against any employee because such employee has op-  
 14           posed any act or practice made unlawful by this title  
 15           or because such employee made a charge, testified,  
 16           assisted, or participated in any manner in an inves-  
 17           tigation, proceeding, or hearing under this title.

18           (2) PROHIBITION AGAINST COERCION.—It shall  
 19           be unlawful to coerce, intimidate, threaten, or inter-  
 20           fere with any individual in the exercise or enjoyment  
 21           of, or on account of such individual having exercised  
 22           or enjoyed, or on account of such individual having  
 23           aided or encouraged any other individual in the exer-  
 24           cise or enjoyment of, any right granted or protected  
 25           by this title.

1           (3) REMEDY.—The remedies and procedures  
 2           otherwise provided for under this section shall be  
 3           available to aggrieved individuals with respect to vio-  
 4           lations of this subsection.

5           (d) LIMITATION.—Notwithstanding subsections  
 6           (a)(3) and (b)(3), if an unlawful employment practice in-  
 7           volves the provision of a reasonable accommodation pursu-  
 8           ant to this title or regulations implementing this title,  
 9           damages may not be awarded under section 1977A of the  
 10          Revised Statutes (42 U.S.C. 1981a) if the covered entity  
 11          demonstrates good faith efforts, in consultation with the  
 12          qualified employee, to identify and make a reasonable ac-  
 13          commodation that would provide such employee with an  
 14          equally effective opportunity and would not cause an  
 15          undue hardship on the operation of the covered entity.

## 16       **Subtitle B—Nondiscrimination in** 17               **Public Accommodation**

### 18       **SEC. 211. DEFINITIONS.**

19           In this subtitle:

20           (1) ADA TERMS.—The terms “commerce”,  
 21           “commercial facilities”, “private entity”, and “public  
 22           accommodation” have the meanings given those  
 23           terms in section 301 of the Americans with Disabil-  
 24           ities Act of 1990 (42 U.S.C. 12181).

1           (2) INDIVIDUAL WHO HAS NOT RECEIVED A  
 2           COVID–19 VACCINE.—The term “individual who has  
 3           not received a COVID–19 vaccine” means an indi-  
 4           vidual who has not received a COVID–19 vaccine or  
 5           who does not have or cannot produce proof of having  
 6           such a vaccine.

7           (3) VACCINATION STATUS.—The term “vaccina-  
 8           tion status” means—

9                   (A) an individual’s status based on the vol-  
 10                  untary election to receive or not to receive a  
 11                  COVID–19 vaccine; and

12                   (B) regardless of whether someone has or  
 13                  has not been vaccinated against COVID–19, an  
 14                  individual’s status with respect to having or  
 15                  producing proof of such vaccination in the form  
 16                  of a vaccine passport or other medical records  
 17                  that would demonstrate whether an individual  
 18                  has been vaccinated against COVID–19.

19   **SEC. 212. PROHIBITION OF DISCRIMINATION BY PLACES OF**  
 20                   **PUBLIC ACCOMMODATION.**

21           (a) GENERAL RULE.—Subject to the provisions of  
 22           this subtitle, no individual shall be discriminated against  
 23           on the basis of vaccination status, or the individual’s un-  
 24           willingness or inability to present a vaccine passport or  
 25           other proof of having a COVID–19 vaccine, in the full and

1 equal enjoyment of the goods, services, facilities, privi-  
 2 leges, advantages, or accommodations of any place of pub-  
 3 lic accommodation by any person who owns, leases (or  
 4 leases to), or operates a place of public accommodation.

5 (b) CONSTRUCTION.—

6 (1) GENERAL PROHIBITION.—

7 (A) ACTIVITIES.—

8 (i) DENIAL OF PARTICIPATION.—It  
 9 shall be discriminatory to subject an indi-  
 10 vidual or class of individuals on the basis  
 11 of the vaccination status of such individual  
 12 or class of individuals, directly, or through  
 13 contractual, licensing, or other arrange-  
 14 ments, to a denial of the opportunity of the  
 15 individual or class to participate in or ben-  
 16 efit from the goods, services, facilities,  
 17 privileges, advantages, or accommodations  
 18 of an entity.

19 (ii) PARTICIPATION IN UNEQUAL BEN-  
 20 EFIT.—It shall be discriminatory to afford  
 21 an individual or class of individuals, on the  
 22 basis of vaccination status of such indi-  
 23 vidual or class of individuals, directly, or  
 24 through contractual, licensing, or other ar-  
 25 rangements with the opportunity to partici-

1           pate in or benefit from a good, service, fa-  
 2           cility, privilege, advantage, or accommoda-  
 3           tion that is not substantially equal to that  
 4           afforded to other individuals.

5           (iii) SEPARATE BENEFIT.—It shall be  
 6           discriminatory to provide an individual or  
 7           class of individuals, on the basis of vac-  
 8           cination status of such individual or class  
 9           of individuals, directly, or through contrac-  
 10          tual, licensing, or other arrangements with  
 11          a good, service, facility, privilege, advan-  
 12          tage, or accommodation that is different or  
 13          separate from that provided to other indi-  
 14          viduals, unless such action is necessary to  
 15          provide the individual or class of individ-  
 16          uals with a good, service, facility, privilege,  
 17          advantage, or accommodation, or other op-  
 18          portunity that is as effective as that pro-  
 19          vided to others.

20          (iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i)  
 21          VIDUALS.—For purposes of clauses (i)  
 22          through (iii) of this subparagraph, the  
 23          term “individual or class of individuals”  
 24          refers to the clients or customers of the  
 25          covered public accommodation that enters

1           into the contractual, licensing or other ar-  
2           rangement.

3           (B) INTEGRATED SETTINGS.—Goods, serv-  
4           ices, facilities, privileges, advantages, and ac-  
5           commodations shall be afforded to an individual  
6           regardless of vaccination status in the most in-  
7           tegrated setting appropriate.

8           (C) OPPORTUNITY TO PARTICIPATE.—Not-  
9           withstanding the existence of separate or dif-  
10          ferent programs or activities provided in accord-  
11          ance with this section, an individual who has  
12          not received a COVID–19 vaccine shall not be  
13          denied the opportunity to participate in such  
14          programs or activities that are not separate or  
15          different.

16          (D) ADMINISTRATIVE METHODS.—An indi-  
17          vidual or entity shall not, directly or through  
18          contractual or other arrangements, utilize  
19          standards or criteria or methods of administra-  
20          tion—

21                 (i) that have the effect of discrimi-  
22                 nating on the basis of vaccination status;  
23                 or

1                   (ii) that perpetuate the discrimination  
 2                   of others who are subject to common ad-  
 3                   ministrative control.

4                   (E) ASSOCIATION.—It shall be discrimina-  
 5                   tory to exclude or otherwise deny equal goods,  
 6                   services, facilities, privileges, advantages, ac-  
 7                   commodations, or other opportunities to an in-  
 8                   dividual or entity because of the vaccination  
 9                   status of an individual with whom the indi-  
 10                  vidual or entity is known to have a relationship  
 11                  or association.

12               (2) SPECIFIC PROHIBITIONS.—

13               (A) DISCRIMINATION.—For purposes of  
 14               subsection (a), discrimination includes—

15                   (i) the imposition or application of eli-  
 16                   gibility criteria that screen out or tend to  
 17                   screen out an individual who has not had  
 18                   a COVID–19 vaccine or any class of such  
 19                   individuals from fully and equally enjoying  
 20                   any goods, services, facilities, privileges,  
 21                   advantages, or accommodations, unless  
 22                   such criteria can be shown to be necessary  
 23                   for the provision of the goods, services, fa-  
 24                   cilities, privileges, advantages, or accom-  
 25                   modations being offered; and

1                   (ii) a failure to make reasonable modi-  
2                   fications in policies, practices, or proce-  
3                   dures, when such modifications are nec-  
4                   essary to afford such goods, services, facili-  
5                   ties, privileges, advantages, or accommoda-  
6                   tions to individuals who have not received  
7                   a COVID–19 vaccine, unless the entity can  
8                   demonstrate that making such modifica-  
9                   tions would fundamentally alter the nature  
10                  of such goods, services, facilities, privi-  
11                  leges, advantages, or accommodations.

12               (3) SPECIFIC CONSTRUCTION.—Nothing in this  
13               title shall require an entity to permit an individual  
14               to participate in or benefit from the goods, services,  
15               facilities, privileges, advantages and accommodations  
16               of such entity where such individual poses a direct  
17               threat to the health or safety of others. The term  
18               “direct threat” means a significant risk to the  
19               health or safety of others that cannot be eliminated  
20               by a modification of policies, practices, or procedures  
21               or by physical distancing, wearing a mask, or wear-  
22               ing personal protective equipment.

23               (c) DISTANCING AND PPE.—Notwithstanding any  
24               other provision of this section, an individual shall not be  
25               considered to be discriminated against on the basis of vac-

1 cination status in violation of this section if that individual  
 2 is required to engage in physical distancing, wear a mask,  
 3 or wear personal protective equipment.

4 **SEC. 213. PROHIBITION OF DISCRIMINATION IN SPECIFIED**  
 5 **PUBLIC TRANSPORTATION SERVICES PRO-**  
 6 **VIDED BY PRIVATE ENTITIES.**

7 (a) GENERAL RULE.—No individual shall be dis-  
 8 criminated against on the basis of vaccination status, or  
 9 the individual’s unwillingness or inability to present a vac-  
 10 cine passport or other proof of vaccinations status, in the  
 11 full and equal enjoyment of specified public transportation  
 12 services provided by a private entity that is primarily en-  
 13 gaged in the business of transporting people and whose  
 14 operations affect commerce.

15 (b) CONSTRUCTION.—For purposes of subsection (a),  
 16 discrimination includes—

17 (1) the imposition or application by an entity  
 18 described in subsection (a) of eligibility criteria that  
 19 screens out or tends to screen out an individual  
 20 based on vaccination status or any class of individ-  
 21 uals based on vaccination status from fully enjoying  
 22 the specified public transportation services provided  
 23 by the entity, unless such criteria can be shown to  
 24 be necessary for the provision of the services being  
 25 offered; and

1           (2) the failure of such entity to make reason-  
 2           able modifications, including physical distancing for  
 3           an unvaccinated individual or an unvaccinated indi-  
 4           vidual wearing a mask or personal protective equip-  
 5           ment, to the extent that the unvaccinated individual  
 6           interacts with individuals who are vulnerable to  
 7           COVID–19 and unvaccinated for COVID–19.

8           (c) DISTANCING AND PPE.—Notwithstanding any  
 9           other provision of this section, an individual shall not be  
 10          considered to be discriminated against on the basis of vac-  
 11          cination status in violation of this section if that individual  
 12          is required to engage in physical distancing, wear a mask,  
 13          or wear personal protective equipment.

14   **SEC. 214. EXEMPTIONS FOR PRIVATE CLUBS AND RELI-**  
 15                           **GIOUS ORGANIZATIONS.**

16          The provisions of this subtitle shall not apply to pri-  
 17          vate clubs or establishments exempted from coverage  
 18          under title II of the Civil Rights Act of 1964 (42 U.S.C.  
 19          2000–a(e)) or to religious organizations or entities con-  
 20          trolled by religious organizations, including places of wor-  
 21          ship.

22   **SEC. 215. ENFORCEMENT.**

23          (a) AVAILABILITY OF REMEDIES AND PROCE-  
 24          DURES.—The remedies and procedures set forth in section  
 25          204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a–

1 3(a)) are the remedies and procedures this subtitle pro-  
 2 vides to any person who is being subjected to discrimina-  
 3 tion on the basis of vaccination status in violation of this  
 4 subtitle or who has reasonable grounds for believing that  
 5 such person is about to be subjected to discrimination in  
 6 violation of this subtitle. Nothing in this section shall re-  
 7 quire a person who has not received a COVID–19 vaccine  
 8 to engage in a futile gesture if such person has actual no-  
 9 tice that a person or organization covered by this subtitle  
 10 does not intend to comply with its provisions.

11 (b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

12 (1) DENIAL OF RIGHTS.—

13 (A) AUTHORITY TO INVESTIGATE.—The  
 14 Attorney General shall have the authority to in-  
 15 vestigate alleged violations of this subtitle, and  
 16 shall undertake periodic reviews of compliance  
 17 of entities subject to this subtitle.

18 (B) POTENTIAL VIOLATION.—If the Attor-  
 19 ney General has reasonable cause to believe  
 20 that—

21 (i) any person or group of persons is  
 22 engaged in a pattern or practice of dis-  
 23 crimination under this subtitle; or

24 (ii) any person or group of persons  
 25 has been discriminated against under this

1 subtitle and such discrimination raises an  
2 issue of general public importance;  
3 the Attorney General may commence a civil ac-  
4 tion in any appropriate United States district  
5 court.

6 (2) AUTHORITY OF COURT.—In a civil action  
7 under paragraph (1)(B), the court—

8 (A) may grant any equitable relief that  
9 such court considers to be appropriate, includ-  
10 ing, to the extent required by this subtitle—

11 (i) granting temporary, preliminary,  
12 or permanent relief;

13 (ii) providing a modification of policy,  
14 practice, or procedure, or alternative meth-  
15 od; and

16 (iii) making reasonable accommoda-  
17 tions for individuals who have not received  
18 a COVID–19 vaccine;

19 (B) may award such other relief as the  
20 court considers to be appropriate, including  
21 monetary damages to individuals aggrieved  
22 when requested by the Attorney General; and

23 (C) may, to vindicate the public interest,  
24 assess a civil penalty against the entity subject  
25 to this subtitle in an amount—

1 (i) not exceeding \$50,000 for a first  
2 violation; and

3 (ii) not exceeding \$100,000 for any  
4 subsequent violation.

5 (3) SINGLE VIOLATION.—For purposes of para-  
6 graph (2)(C), in determining whether a first or sub-  
7 sequent violation has occurred, a determination in a  
8 single action, by judgment or settlement, that the  
9 entity subject to this subtitle has engaged in more  
10 than one discriminatory act shall be counted as a  
11 single violation.

12 (4) PUNITIVE DAMAGES.—For purposes of  
13 paragraph (2)(B), the term “monetary damages”  
14 and “such other relief” does not include punitive  
15 damages.

16 (5) JUDICIAL CONSIDERATION.—In a civil ac-  
17 tion under paragraph (1)(B), the court, when con-  
18 sidering what amount of civil penalty, if any, is ap-  
19 propriate, shall give consideration to any good faith  
20 effort or attempt to comply with this Act by the en-  
21 tity. In evaluating good faith, the court shall con-  
22 sider, among other factors it deems relevant, wheth-  
23 er the entity could have reasonably anticipated the  
24 need for a reasonable accommodation for individuals  
25 who have not received a COVID–19 vaccine.

1 **SEC. 216. EFFECTIVE DATE.**

2       This subtitle shall become effective 90 days after the  
3 date of the enactment of this Act.

4 **Subtitle C—Nondiscrimination by a**  
5 **Public Entity and Access to Fed-**  
6 **eral Services**

7 **SEC. 221. NONDISCRIMINATION BY A PUBLIC ENTITY.**

8       (a) IN GENERAL.—Subject to the provisions of this  
9 subtitle, no qualified individual who has not received a  
10 COVID–19 vaccine shall, by reason of such vaccination  
11 status, including the qualified individual’s unwillingness or  
12 inability to present a vaccine passport or other proof of  
13 having a COVID–19 vaccine, be excluded from participa-  
14 tion in or be denied the benefits of the services, programs,  
15 or activities of a public entity, or be subjected to discrimi-  
16 nation by any such entity.

17       (b) RIGHT TO VOTE SHALL NOT BE IMPAIRED.—  
18 It shall be unlawful for any State or political subdivision,  
19 as such term is used in the Voting Rights Act of 1965  
20 (52 U.S.C. 10301 et seq.), to require or impose a require-  
21 ment that a voter or voters must present a vaccine pass-  
22 port or otherwise present information regarding their vac-  
23 cination status in order to exercise the right to vote, in-  
24 cluding to vote in person, in any election involving any  
25 candidate for Federal office.

1       (c) RULE OF CONSTRUCTION.—Notwithstanding sub-  
 2 section (a), a public entity shall not be considered in viola-  
 3 tion of subsection (a) if that public entity requires a quali-  
 4 fied individual who has not received a COVID–19 vaccine  
 5 to engage in physical distancing, wear a mask, or wear  
 6 personal protective equipment.

7       (d) ENFORCEMENT.—The remedies, procedures, and  
 8 rights set forth in section 505 of the Rehabilitation Act  
 9 of 1973 (29 U.S.C. 794a) shall be the remedies, proce-  
 10 dures, and rights this title provides to any person alleging  
 11 discrimination on the basis of status as a qualified indi-  
 12 vidual who has not received a COVID–19 vaccine in viola-  
 13 tion of this section.

14       (e) DEFINITIONS.—

15               (1) QUALIFIED INDIVIDUAL WHO HAS NOT RE-  
 16 CEIVED A COVID–19 VACCINE.—The term “qualified  
 17 individual who has not received a COVID–19 vac-  
 18 cine” means an individual who—

19                       (A) has voluntarily elected not to receive a  
 20 COVID–19 vaccine; and

21                       (B) with or without reasonable modifica-  
 22 tions to rules, policies, or practices, including  
 23 physical distancing, mask wearing, wearing per-  
 24 sonal protective equipment, or undergoing a  
 25 COVID-related symptom check meets the essen-

1            tial eligibility requirements for the receipt of  
 2            services or the participation in programs or ac-  
 3            tivities provided by a public entity.

4            (2) PUBLIC ENTITY.—The term “public entity”  
 5            has the meaning given that term in section 201 of  
 6            the Americans with Disabilities Act of 1990 (42  
 7            U.S.C. 12131).

8    **SEC. 222. ACCESS TO FEDERAL SERVICES.**

9            (a) FEDERAL SERVICES.—

10           (1) IN GENERAL.—No otherwise qualified indi-  
 11           vidual who has not received a COVID–19 vaccine,  
 12           shall, solely by reason of her or his vaccine status,  
 13           be excluded from the participation in, be denied the  
 14           benefits of, or be subjected to discrimination under  
 15           any program or activity receiving Federal financial  
 16           assistance or under any program or activity con-  
 17           ducted by any Executive agency or by the United  
 18           States Postal Service.

19           (2) REGULATIONS.—The head of each such  
 20           agency shall promulgate such regulations as may be  
 21           necessary to carry out this section.

22           (3) PROGRAM OR ACTIVITY.—In this section the  
 23           term “program or activity” has the meaning given  
 24           that term in section 504 of the Rehabilitation Act of  
 25           1973 (29 U.S.C. 794).

1 (b) PETITION; ACCESS TO PROPERTY.—An individ-  
 2 ual’s right to petition the Federal Government and an in-  
 3 dividual’s right to access Federal property shall not be af-  
 4 fected because the individual is a qualified individual who  
 5 has not received a COVID–19 vaccine. Proof of COVID–  
 6 19 vaccination shall not be a requirement for access to  
 7 Federal property or Federal services, or for access to con-  
 8 gressional grounds or services.

9 (c) EXCEPTION RELATING TO ADMISSION AND DE-  
 10 PARTURE OF ALIENS.—

11 (1) IN GENERAL.—Notwithstanding any other  
 12 provision of this Act, the Secretary of Homeland Se-  
 13 curity may request, require, and collect vaccination  
 14 records providing evidence of vaccination for  
 15 COVID–19, SARS–CoV–2, or any variant of  
 16 COVID–19 or SARS–CoV–2 from any alien (as de-  
 17 fined in section 101(a) of the Immigration and Na-  
 18 tionality Act (8 U.S.C. 1101(a)) seeking admission  
 19 to the United States or departing the United States,  
 20 to the extent necessary to ensure public health.

21 (2) RECORDKEEPING.—The Secretary of Home-  
 22 land Security may maintain such evidence of vac-  
 23 cination and any ancillary documentation for a pe-  
 24 riod the Secretary considers necessary.

1           (3) PRIVACY.—Information collected or main-  
2           tained under paragraph (1) or (2) may not be trans-  
3           mitted or communicated to any entity or individual  
4           other than an employee of the Department of Home-  
5           land Security designated by the Secretary of Home-  
6           land Security.

7           (4) RULE OF CONSTRUCTION.—Nothing in this  
8           subsection shall be construed to provide an alien a  
9           right or an enforceable action relating to the admis-  
10          sion of the alien to the United States or authoriza-  
11          tion to remain in the United States.

○